

Child Welfare Pre-Service Training

Legal II: The Court Process

Participant Guide

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Module 1: Using the Florida Dependency Court

Uniform Child Custody Jurisdiction Enforcement Act

What is the UCCJEA?

- A child custody “jurisdiction” statute.
- Used by the court to decide if it or another court can hear and decide the custody issues in a particular case.
- Designed to settle the issue of court jurisdiction when the courts of two or more states could have jurisdiction of a particular case.

Purposes

- Used in any case involving custody of or visitation with any minor children.
- Required even if the custody and visitation of the minor children are not in dispute.
- To reconcile differing rules of law in the states and to bring uniformity.
- Avoid jurisdictional competition/conflict with courts of other states in matters of child custody.
- Promote cooperation with the courts of other states.
- Avoid re-litigating the custody decisions of other states.
- Facilitate the enforcement of custody decrees of other states.

Use

- Sets rules to be used by courts to decide the connection a state has with a case.
- If the court decides that it is the most appropriate court to hear the case, it will decide to exercise jurisdiction.
- A court in this state has temporary emergency jurisdiction if:
 - the child is present in the state and has been abandoned.
 - it is necessary in an emergency to protect the child or child’s sibling who is subjected to or threatened with maltreatment.

Information to be submitted to Court

- Child’s present address or whereabouts
- Places where the child has lived during the last 5 years
- Names and present address of the persons with whom the child has lived during the last 5 years
- If any party has participated in or has knowledge of any other custody proceeding
- Any knowledge of any other person not a party who has physical custody of the child or claims rights of legal custody
- Acknowledgement of continuing duty to inform the court of any proceeding which could affect this proceeding

Application to Indian Tribes

- Not subject to this part to the extent that it is governed by the Indian Child Welfare Act.

Non-Judicial In-Home Services

F.A.C. 65C-30.010

Non-Judicial In-Home Services may be appropriate for cases in which court involvement is not needed to ensure child safety or effective service provision, even if there is legal sufficiency to file a petition for court ordered services.

Non-Judicial In-Home Services Criteria

- can assure child's safety without judicial oversight
- can ensure effective service delivery through voluntary service provision
- may or may not have legal sufficiency to proceed with a dependency petition
- includes those families who have been referred for family preservation services
- does not include cases where children are considered to be at high risk

Responsibilities

Before offering Non-Judicial In-Home Services to the family, consult with your supervisor using the Safety Assessment tool to assess the risk level to the child and consider:

- if the parents or legal custodians are of a young age
- if the parents or legal custodians use illegal drugs
- domestic violence is present in the home
- arrest of the parents or legal custodians on charges of manufacturing, processing, disposing of, or storing, either temporarily or permanently, any substances in violations of chapter 893
- criminal, domestic violence and abuse/neglect history of the parents or legal custodians and others who live in or frequent the home
- presence of any chronic or severe abuse or neglect or multiple maltreatments
- prior investigations of maltreatment and the findings of the investigations
- history of non-compliance or non-cooperation during previous interventions
- mitigating factors, such as the degree of cooperation by the parents or legal custodians and their ability to follow through with planned actions and referrals

Document in the case file the factors considered in the staffing with your supervisor; and the decision that was made regarding the risk level to the child and if Judicial Services will be pursued.

You and your supervisor must reach consensus that the child is not at high risk and child safety and effective service delivery can be ensured without court involvement.

Final decision is made at the Case Transfer Staffing.

Case Transfer Staffing

If Non-Judicial In-Home Services are offered prior to the Case Transfer Staffing, the family must be informed that Non-Judicial In-Home Services are contingent on agreement at the staffing.

Procedures for resolving disagreements are available in each region/circuit.

Staffing with CLS to decide legal sufficiency is optional.

Once Non-Judicial In-Home Services are accepted by the family, a case plan must be negotiated with the parents/legal custodians and signed within 30 days of the staffing.

Non-Judicial In-Home Services Agreement

Parents or legal custodians must sign a Non-Judicial In-Home Services agreement, to document their:

- understanding of the nature of the services
- obligation to cooperate and the sanctions that may result if progress is not made in ameliorating the conditions that led to the maltreatment

All adults living in the home who provide any level of child care or supervision must sign the agreement, including:

- step-parents, paramours, extended family and roommates.

If both biological parents, a parent and a stepparent, a parent and a paramour, a parent and a roommate, or two legal custodians are residing in the home, both must sign the agreement.

Parents who do not live in the home, but will be involved in developing and complying with the case plan must sign the agreement.

Criteria to Consider for Termination

The following criteria must be considered when assessing for the termination of services.

- The parents and if appropriate to the child's age and level of understanding:
- are aware of their own needs and have demonstrated a willingness and ability to use others in time of need
 - perceive and are able to verbalize changes that they have made
 - have a support network available and are able and willing to use that network
 - have improved self-concepts
- The parent is developing outside interests.
- Each parent recognizes when their spouse needs help and tries to meet the spouse's needs.
- The parent and the child have close contact with at least one person who can recognize a crisis in the family and intervene to remedy the situation.

- The parent's immediate crises, such as housing, illness, and unemployment, have been resolved.
- Obstacles to the parent getting help are minimal.
- The parent has realistic expectations of the child(ren) and the child is capable of meeting these expectations.
- The parent sees the child as an individual.
- The parent is aware of alternative methods of disciplining the child.

Lack of Compliance

Cases must be staffed with your supervisor when:

- a decision is needed for continued services.
- the family is not complying with the case plan.
- the family is not cooperating as agreed.
- the family is not showing substantial progress toward the amelioration of the issues that resulted in the maltreatment.

Legal Sufficiency & Case Closure

If the family requests closure of the case and it is decided that the case should not be closed or a decision is made that Judicial In-Home Services are necessary, a staffing must be held with CLS to decide if there is legal sufficiency to file a dependency petition.

- Non-compliance or lack of cooperation by the family may be a factor in establishing legal sufficiency and the need for continued services on a court ordered basis.

If agreement cannot be reached regarding legal sufficiency, the agency's conflict resolution process must be followed.

When legal sufficiency cannot be established and a family has requested closure of their Non-Judicial In-Home Services case, the case must be closed.

If legal sufficiency exists, you and your supervisor must assess if Non-Judicial In-Home Services will continue or a dependency petition will be filed.

When you and your supervisor decide that Non-Judicial In-Home Services will be terminated and the case closed, and the family disagrees, the parent/caregiver may request a staffing or administrative review.

CLS Staffing and Documentation

- Following each staffing with CLS, the CLS attorney will provide you with a signed and dated statement indicating: a staffing was held; the attorney's recommendation regarding legal sufficiency; and the action to be taken.
- You must provide detailed documentation of the CLS staffing in the FSFN case notes: the decisions made in the CLS staffing, including the decision not to invoke the authority of the court; and the reasons the case is being closed.

Non-Judicial In-Home Services Agreement

Case Name: _____

Parent/Caregiver's Name(s): _____

We understand and agree to participate, on a voluntary basis, in receiving protective services. As part of our participation in receiving these services, we agree to the following conditions:

- A Case Manager will work with us in our home to help resolve family issues and build family strengths.
- We agree to actively participate in the development of and the carrying out of the family case plan to the best of our ability.
- We understand that services may be discontinued by the agency at any time, by notification to us orally or in writing. If we disagree with the discontinuation of services we may request a staffing or administrative review by agency staff to determine our continued eligibility for services.
- We understand that we may request the discontinuation of services at any time, by notification to the agency orally or in writing. The agency will assess the situation and, if it disagrees with this request, a petition may be filed for Judicial In-Home Services.
- We understand that if we do not cooperate with the recommended services, do not substantially comply with the case plan, or do not make sufficient progress toward improving the conditions that resulted in the abuse or neglect intake, the agency may petition the court for Judicial In-Home Services. We understand that by law the Case Manager is required to report any subsequent abuse/neglect allegations to the Florida Abuse Hotline for investigation and further action as deemed necessary.
- We agree to notify the Case Manager in advance of any change in address or of any additional people moving into our home. We also agree to notify the Case Manager of any people who are currently frequent visitors in our home or later become frequent visitors.
- We agree to immediately notify law enforcement (local police or sheriff) if a child in our home runs away or otherwise is missing.
- We also agree to the release of information such as medical, psychological, psychiatric and educational information as may be necessary in order to complete a family assessment and formulate and complete the family case plan.

Date Case Manager's or Investigator's Signature Supervisor's Signature

Name & Phone Number: _____

Date Parent/Caretaker's Signature Parent/Caretaker's Signature

Other Signatures _____
(as appropriate): Signature & Relationship/Role Signature & Relationship/Role

Signature & Relationship/Role Signature & Relationship/Role

Activity: Five Families

For each family assess if you would petition the court or offer Non-Judicial In-Home Services.

The **ADAMS** family consists of a mother, father, a 12-year-old son, and a 10-year-old daughter. They live in an isolated area with several extended family members. The son misses a lot of school and appears very temperamental. The school called with concerns about the son's emotional health. Your first visit to the home did not go well. It was difficult to keep everyone in the room at the same time, and they denied any need for help. The parents showed an indifference to their son. He appeared very unresponsive and apathetic. The parents did not seem to place a high priority on their son's needs, noting that he was a "boy" and did not require the same attention as their daughter. They indicated that their son should be able to "take care of himself" and their conversation kept returning to the scholastic achievements of the daughter.

The **BUTLER** household consists of an 18-year-old mother and her 9-month-old child. They live in a housing project with subsidized rent. The child's father had been involved with the family until recently. An intake was received from the emergency room when the child was brought in with a suspicious fracture. The mother says that the child fell out of his crib. The mother willingly meets with you and the discussion seems to go well until the child cries. The mother then becomes angry and wonders why the child is doing this to her and why he does not love her.

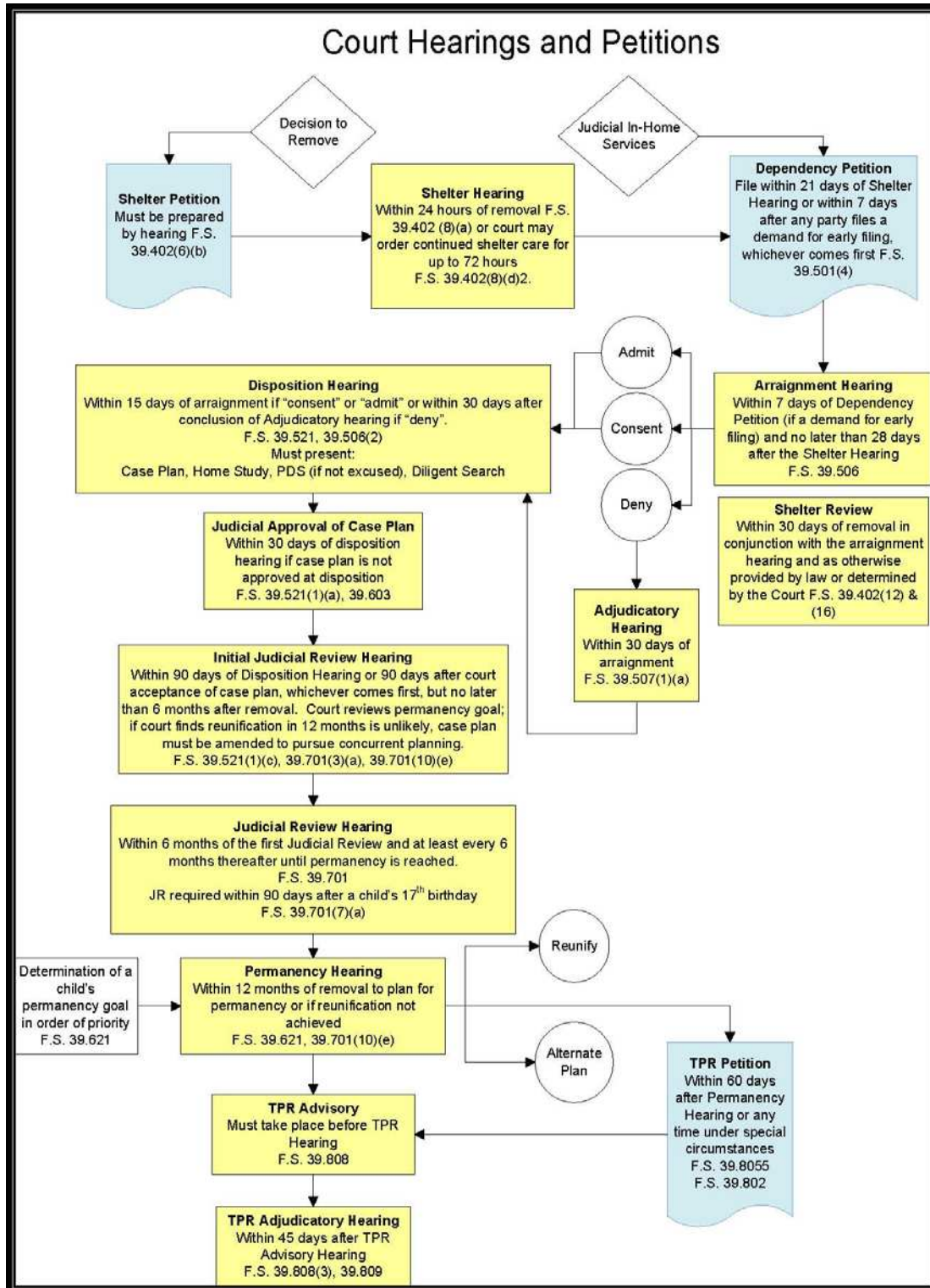
The **CLINTON** family consists of the father, stepmother and a 16-year-old daughter. According to the stepmother, the father is quite successful in business despite his humble beginnings, and is popular with his colleagues and friends. His success has continued despite the death of his wife five years ago, and the rumors of downsizing at his company. The father and daughter have been very close since the mother's death, and he has given his daughter everything. Yet, the daughter does not go out much and spends a lot of time alone in her room. She won't wear her nice clothes and seems to wear layers of old clothes. Despite good grades, she seems to have a lot of anxiety over attending school and other activities. The father is never around during your visits. The school counselor called in alleging a sexual relationship between the father and daughter.

The **DELAWARE** family consists of a 28-year-old mother, her 19-year-old boyfriend, and five children ranging in age from 2 to 13. The oldest child is sometimes in charge while the mother goes out with the boyfriend. The house is dirty and there are some conditions that may be hazardous to the health of the children. The school complains about the children's clothing and states that they have an odor. The children have not attended school for a while due to a persistent lice problem. The police have been called to the home on various occasions for fighting and loud parties. Their last visit was in February when the neighbor called to report that the 2-year-old was walking on the road with no shoes.

The **ELK** family consists of a 23-year-old father, 22-year-old mother and 7-year-old son. The mother is well known by the child protection staff due to her years spent in foster care. The mother admits that her husband has been drinking a lot, but states that everything will be okay as soon as he finds a good job. She notes that the father loves his son and would not hurt him; the injuries the child has suffered when alone with the father have all been unfortunate accidents. The mother reports that the son is doing well in his special needs classes at school.

Module 2: Court Proceedings

Court Hearings and Petitions Flowchart



Court Hearings & Petitions Overview

Removal/Judicial In-Home Services

Court involvement begins when a:

- child is removed; or
- dependency petition requesting Judicial In-Home Services is filed for a child staying at home.
- TPR petition is filed when expedited grounds exist

Permanency hearings must happen within 12 months of a child's removal. The initial case plan limits are 12 months from:

- removal, or
- court approval of the case plan, whichever comes first.

Continuances (time extensions) for all parties may not total more than 60 days within the 12-month case plan period.

“A continuance or extension of time beyond the 60 days will be granted only for extraordinary circumstances necessary to preserve the constitutional rights of a party or when substantial evidence demonstrates that the child's best interests will be affirmatively harmed without the granting of a continuance or extension of time.” F.S. 39.0136.
Continuances and extensions of time are limited to the number of days absolutely necessary to complete a necessary task, F.S. 39.402(14)(f).

Removal of a child:

- The pivotal legal event in a dependency case.
- Child safety is critical: You must remove when you assess that a child's safety is at risk, whether at initial contact or later assessment.
- The legal process starts when the child is removed.

Placing children under Judicial In-Home Services, you must:

- write a case plan.
- file a Dependency petition.
- attend judicial reviews every 6 months to report the family's progress toward the case plan goals.
- continually monitor the family to assess any potential risk of harm to the child.

Shelter Petition, FL Rules of Juvenile Procedure P 8.305

The shelter petition explains why the child was removed:

- includes evidence for probable cause and reasonable grounds for removal, shows that the need to remove the child will not be eliminated by appropriate and available services. F.S. 39.402(8)(d)1.
- specifies that “reasonable efforts” to prevent removal have been made
- unless the child's safety is an immediate issue. In this case, the petition must describe the emergency or danger that warranted the removal. F.S. 39.402(8)(h)5.a.-d.

Shelter Hearing, F.S. 39.402

The shelter hearing is held within 24 hours of removal.

- Did the child need to be removed from the home?
- Must the child remain sheltered?
- Is there a relative/non-relative willing and able to care for the child if they cannot return home?

F.S. 39.402(8)(d) and (h)4.: The court may order shelter care for 72 hours while you gather additional documentation relevant to the child's risk.

- The parents/legal custodians may request a 72-hour continuance if they don't have an attorney and want one. If they cannot afford counsel, they have the right to be represented by appointed counsel.
 - If the continuance is granted, the child remains in shelter care.
- The judge will offer mediation.
- Standard of proof: **Probable Cause**

Shelter Orders

- requires parents to provide financial information so that child support can be calculated (within 28 days after the order).
- 39.402(10)(a): Must contain written findings if reasonable efforts were made.
 - Must describe services that could prevent the need for removal and the date you expect these services to become available.

Do NOT create a "laundry list" of services that would be beneficial if they existed. Identify specific services that are contractually available, accessible and can later be put in place, but are unavailable or inappropriate at the present time. If no services exist, that is what must be documented.

- **39.402(10)(b):** If services are not available to prevent/eliminate the need for the child's removal/continued removal, the written finding must contain an **explanation describing why the services are not available.**
- The court must set visitation rights. You must provide justification to the court if visitation is ordered, but will not begin within 72 hours of the shelter hearing.
- **39.402(17):** At the shelter hearing, the court will ask the parent if they have any relatives to consider for the child's placement.
- The parent must tell the court who these relatives are and where they can be located.
- The court will advise the parents of their continuing duty to inform the court/agency of any relatives to consider for the child's placement.
- **39.402(18):** The court will advise the parents that they must substantially comply with their case plan. If they do not, their parental rights can be terminated and the child's out-of-home placement may become permanent.

Shelter Review, F. S. 39.402(12) and (16)

- Purpose: The court reviews if the child should remain in shelter through adjudication.
- Held no later than 30 days after placement in shelter
 - in conjunction with the arraignment hearing **F. S. 39.402(16)**; and,
 - when the court finds it necessary.
- If conducted by a non-juvenile court judge:
 - The juvenile court judge must hold another hearing within two working days.

Dependency Petition, FL R Juv P 8.310, F.S. 39.501

- Presents maltreatment evidence
- Addresses the legal definition of maltreatment
- Standard of Proof: **Preponderance of evidence** proves maltreatment elements.
 - If the relevant facts **for each element** are not included, the petition is dismissed.
- Notices parents/caregivers (includes live-in paramour) of allegations.
 - The child's parents/legal custodians must receive a copy of the dependency petition at least 3 business days before the arraignment hearing.
- Evidence in the dependency petition affects the case plan and termination of parental rights.
 - The case plan can only be used to address behaviors that parents/legal custodians admit to, or were found by a court to have committed. It cannot be used to force parents/legal custodians to correct any other behaviors.
- **F.S. 39.301(9)(b)**: A dependency petition must be filed in all high-risk cases. Agencies have the discretion to define what constitutes a high risk case.

Arraignment Hearing, F.S. 39.506

- Purpose: Formally presents the dependency petition containing maltreatment allegations.
- Parents admit, consent, or deny the allegations.
 - If parents admit or consent to the allegations, a disposition hearing is held within 15 days.
 - If parents deny the allegations, an adjudicatory hearing is held within 30 days.
- If parents are noticed, but fail to appear at arraignment, the court will find that they consent to the adjudication of dependency of the child.

Adjudicatory Hearing, F.S. 39.507

- Did the parent(s) abuse, abandon, neglect or harm the child(ren)?
- Held within 30 days of arraignment.
- A trial without a jury (conducted by the judge).
- Standard of Proof: **Preponderance of evidence**
- Parents/legal custodians are allowed to obtain discovery (information disclosed by the opposing party) provided **F.S. 39.202**, is not violated.
- **39.507(7)(a)**: Only one order adjudicating each child is entered. This order sets the child's legal status, and is based on the conduct of one parent, both parents, or a legal custodian.
- **39.507(7)(b)**: Another hearing to present evidence may be held about the conduct of one parent, both parents, or a custodian. With court approval, supplemental findings made beyond a preponderance of the evidence may be entered. The child's dependency status may not be retried or re-adjudicated.
- **39.507(7)(c)**: If a court adjudicates a child and the child is in out-of-home care, the court will ask the parent(s) if there are relatives who might serve as a placement for the child.
- The parents must tell the court and all parties who these relatives are and where to locate them.
- The court will tell the parents that failure to substantially comply with the case plan may result in the termination of their parental rights, and the child's out-of-home placement may become permanent.

Disposition Hearing, F.S. 39.521

- Purpose: Decide and order appropriate protections, services, and placement of a child adjudicated dependent.
- Held within 30 days after the adjudicatory hearing, if parents deny the allegations:
 - Where should the child be placed?
 - What case plan is needed to eliminate the reasons for removal?
- Must file with the court 72 hours before the disposition hearing, but no later than 60 days after removal.
- Case plan
- Predisposition study (PDS): includes the home study and diligent search
 - The judge may grant an exception to the PDS requirement if they find that all the information they need is available in other court documents.
- The Case Plan
 - Must be served on all located parties at least 72 hours before the disposition hearing.
 - Judicial approval often occurs at this hearing.
 - If the court does not approve the case plan, or finds it needs to be amended or revised, a hearing is set within 30 days for case plan review and approval.

Stipulation, FL Rules of Juvenile Procedure 8.315(c)

- An agreement signed by all parties that prevents many subsequent court proceedings.
 - A judicial review must be held to review compliance by the parties.
- A written stipulation may be submitted at any dependency court proceedings to address these issues:
 - visitation
 - case plan
 - mediations
 - evidence submission
 - after motions are filed, agreement with orders
- Reduces trial time - can get the case to permanency more quickly.
- Frequently part of a mediated settlement - always includes a case plan.

Judicial Review Hearings, F.S. 39.521(1)(c) and 39.701

- The court will conduct a judicial review at least every 6 months until the child attains permanency.
- Missing Children: Regularly scheduled judicial reviews must continue for any missing child until they turn 18 or the court terminates supervision. **65C-30.013**
- A JRSS/CPU must be submitted at judicial review.
- The requirements of the JRSS/CPU are listed in **F.S. 39.701(8)(a) 1. - 12.**
- There are few exemptions from judicial review. Refer to **F.S. 39.704.**

Initial Judicial Review Hearing

- Purpose: Review the case plan permanency goal.
- When the court finds that it is unlikely that the child will be reunified within 12 months of removal, a motion to amend the case plan under 39.6013 and use concurrent planning 39.701(10)(e) must be filed within 10 business days following receipt of the written finding.
- Must be held within 90 days after disposition or the hearing approving the case plan, whichever is earlier, but no later than 6 months after the removal date.
- You must prepare:
 - JRSS/CPU
 - case plan update

Second Judicial Review Hearing

- Appropriateness of child's permanency plan is decided.
- Must be held within 6 months of the first review, but no later than 12 months after removal.
 - If held at 12 months, the child's permanency plan must be presented. (refer to the topic, "Permanency Hearing" PG14)

Judicial Review Hearing for Children Awaiting Adoption

- Must be held every 6 months to review the current placement and progress towards an adoption:
 - placement, or,
 - finalization.

Judicial Review Hearing before Child's 18th Birthday, F.S. 39.701(7)(a)-(c)

- Held within 90 days after a child's 17th birthday
- The court is given information related to Independent Living services
- Includes updated case plan and JRSS/CPU with all requirements under s. **39.701(7)(b)**

Citizen Review Panels and/or Administrative Reviews

- Judicial reviews may be handled by a citizen review panel (**F.S. 39.701(2)(b)**), or if a formal agreement exists in the region/circuit, an administrative review will be held (**F.S. 39.701(3)(d)**).
- After citizen review panels conduct two consecutive reviews, a judicial review must then be held in front of the court.
- The purpose of judicial reviews, administrative reviews, and citizen-panel reviews is to monitor the family's progress while working toward the goals of the case plan.
- Administrative hearings may occur if there is a formal agreement in the region/circuit, but, an administrative review may not be substituted for the first judicial review or any subsequent 6-month reviews.

Permanency Hearing, F.S. 39.621

- A permanency hearing must be held within 12 months after removal or 30 days after a court finds that reasonable efforts are not required.
- At the permanency hearing, the court decides:
 - if the permanency goal for the child is appropriate or must be changed;
 - when the child will reach one of the permanency goals; and
 - if reasonable efforts were made to finalize the permanency plan.
- You need to conduct a permanency planning staffing
 - to prepare for a permanency hearing.
 - whenever it is necessary to ensure that you have all the information you need to support your permanency recommendation.
- **65C-28.006(8)**
 - Staffings must be held early enough to give you time to write a comprehensive JRSS/CPU draft - you must provide this draft to CLS at least 10 working days before the judicial review hearing.

39.621(3)(a)

- Within at least 3 business days before the permanency hearing, the JRSS/CPU must be filed with the court and copies must be served to all parties.
- **65C-30.013(5)(b)**: Four instances when a permanency hearing occurs:
 - within 30 days of a court finding that reasonable efforts to reunify are not required;
 - no later than 12 months from the date the child was removed from his or her home;
 - no less frequently than every 12 months if the child remains in out-of-home care and under Judicial In-Home Services;
 - when a child has been in out-of-home care for the past 12 out of 22 months. This hearing specifically addresses termination of parental rights.
- Adoption is the primary permanency option when the court finds against reunification.
 - If the child is placed with a relative or a relative of a half-sibling, the court will not require the relative to adopt the child.
 - If the court finds that adoption is not best for the child, permanency options to pursue are:
 - permanent guardianship,
 - permanent placement with a fit and willing relative, or
 - placement in another planned permanent living arrangement (e.g. - independent living). **F.S. 39.621.**
- If the child has a sibling who was previously adopted:
 - The sibling's adoptive parents must be given the chance to apply to adopt the child.
 - Their application is given the same consideration as a relative's application.

Termination of Parental Rights Petition, F.S. 39.8055; F.S. 39.806; FL R Juv P 8.500

39.8055(1): A petition to terminate parental rights must be filed within 60 days after a:

- child is not returned to the physical custody of their parents 12 month after the child was sheltered or adjudicated dependent, whichever occurs first.
- TPR petition was not filed, and the child has been in out-of-home care for 12 of the most recent 22 months.
- parent has been convicted of the murder, manslaughter, aiding or abetting the murder or conspiracy or solicitation to murder the other parent, or another child of the parent, or felony battery that resulted in serious bodily injury to the child or to another child of the parent.
- court finds that reasonable efforts to reunify the child and parent are not required.

39.8055(2): The above applies unless:

- the child is being cared for by a relative.
- there is a court documented, compelling reason that filing a TPR petition is not best for the child.
- A TPR petition may be filed at any time that one of the grounds for TPR exist. The petition may be filed by CLS, a GAL, or any other person who has knowledge of the alleged facts or is informed of them and believes they are true.

Grounds for termination of parental rights include **F.S. 39.806(1)(a)-(l):**

- child was voluntary surrendered by parent
- child was abandoned (60 day diligent search cannot identify/locate parent)
- severe or continuing maltreatment (continued involvement threatens the child regardless of services provided)
- incarcerated parent, under certain circumstances **F.S. 39.806(1)(d)1-3**
- parents have materially breached the case plan; “**materially breached**” means:
 - The parent(s) failed to substantially comply for 12 months after the child’s adjudication or placement into shelter care, whichever occurs first.
 - Parent(s) are unlikely or unable to substantially comply with the case plan before the time for compliance expires.
 - The parents are able, but fail to maintain frequent and regular contact with the child through frequent and regular visitation or communication.
- egregious conduct or failure to prevent egregious conduct
- aggravated child abuse, sexual battery, sexual abuse, or chronic abuse
- parent committed the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery that resulted in serious bodily injury to the child or to another child
- involuntary TPR of the child’s sibling

- Parent(s) have a history of extensive, abusive, and chronic use of alcohol or a controlled substance and have failed to complete available treatment during the 3 year period before the TPR petition was filed.
- The child's blood, urine, or meconium contained alcohol, controlled substance or metabolites of the substances that was not the result of medical treatment for the mother or infant. And, the child's mother has at least one other child adjudicated dependent due to exposure to a controlled substance or alcohol after she had the opportunity to participate in substance abuse treatment.
- On 3 or more occasions the child, or another child of the parent(s), was placed in out-of-home care due to conditions caused by the parent(s).
- The TPR petition:
 - presents evidence for the TPR grounds listed in **F.S. 39.806**
 - confirms that parents were informed of their right to counsel, were offered a case plan (unless expeditious filing occurs), and the child was adjudicated dependent
 - establishes that the child's manifest best interests will be served by granting the petition

Expedited TPR

TPR can be expedited (sped up) when any conditions in **F.S. 39.806(1)(b)-(d) or (f)-(l)** have occurred.

- You are not required to offer reasonable efforts to preserve and reunify the family.
- If expedited:
 - TPR petition is filed - not dependency petition.
 - Case plan goal is Adoption, so that services continue until the court issues an order.
 - You do not have to offer a case plan with a goal of reunification to the parent(s).

Termination of Parental Rights Hearings




- Purpose: to decide if parental rights should be terminated, freeing the child for adoption.
- There is no "Termination of Parental Rights Hearing." It is a trial, and has its own:
 - advisory hearing (F.S. 39.808);
 - adjudicatory hearing (F.S. 39.809) and;
 - disposition hearing (F.S. 39.811)
- TPR hearings are very serious and are governed by different rules than the hearings previously discussed.
- Standard Proof: **Clear and convincing evidence**

Blank Dependency Hearing Map

Court Hearing	Purpose	Timeframe	Standard of Proof
Shelter			
Arraignment			
Adjudicatory			
Disposition			
Judicial Reviews			
Permanency			
TPR Advisory			
TPR Adjudicatory			

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Findings that must be included in the Shelter Order:

-  1. Reasonable efforts were made to prevent /eliminate the need to remove the child from home; or
-  2. If preventive services were not offered due to emergency placement, the lack of services was reasonable under these circumstances; &
-  3. Leaving the child at home is contrary to their welfare/health

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Considerations Prior to Court Action

Is the child at imminent risk?
Is the caregiver unable/unwilling to take action to protect the child?

Were treatment(s) unsuccessful?
Has the caregiver made little progress toward providing adequate care of the child?

Does the family's failure to cooperate place the child in substantial danger?

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Considerations Prior to Court Action

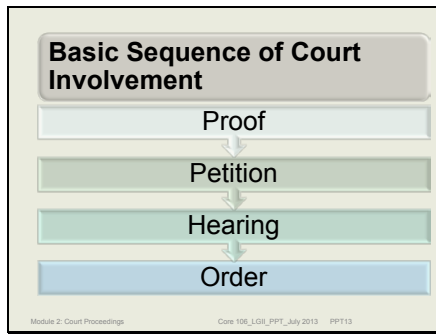
Is the child in need of non-optional medical or psychiatric care?
Does the caregiver refuse to provide this care?

Does the caregiver refuse to accept services even though the child is in substantial danger?

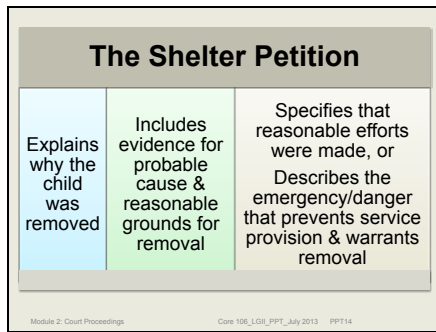
Is the caregiver incapacitated by drug/alcohol use, physical/mental illness, or incarceration?
Can they provide minimally sufficient care for the child?

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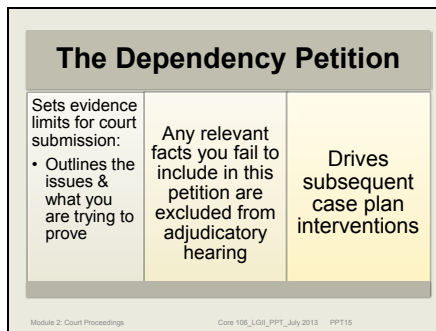
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Contents of Shelter Petition

- Child's name, address, date of birth, & sex
- Parents /legal custodian's name & address (if known) & how each was notified of the shelter hearing
- Removal date/time
- Statement that child is of an age subject to Court's jurisdiction
- Reasons child needs shelter placement
- Reasonable efforts (if any) taken to prevent/eliminate need for removal/continued removal
- Placement recommendation
- Signature of petitioner & CLS

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Contents of Dependency Petition

- Sufficient facts to show the child is legally dependent
- Allegations to the identity & residence of parents/legal custodians (if known)
- The child's age, sex, & name
Two or more children may be subject of the same petition
- Two or more allegations of dependency may appear in same petition, in separate counts
- Must describe voluntary services &/or dependency mediation offered to parents/legal custodians & the outcome of each
- Signature in good faith

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Grounds for TPR F.S.39.806(1)(a)-(l)

- Voluntary Surrender
- Abandonment
- Severe or Continuing Abuse or Neglect
 - (parents' continued involvement threatens the child irrespective of service provision)
- Incarcerated Parent (under certain circumstances)

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Expedited TPR 39.806(1)(b)-(d) or (f)-(l)

- Abandonment
- Incarceration of a parent, when significant part of child minority will be spent incarcerated
- Conduct of parent demonstrates continued involvement would threaten safety and well-being of child.
- Egregious conduct or failure to prevent egregious conduct

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Expedited TPR

- Egregious conduct or failure to prevent egregious conduct
- Aggravated child abuse/sexual battery/sexual abuse/chronic abuse
- Parent convicted of murder/manslaughter, aiding/abetting murder, conspiracy/solicitation to murder the other parent or another child, or a felony battery resulting in serious bodily injury to the child/another child
- Involuntary TPR of the child's sibling

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Expedited TPR

- Parents have a history of extensive alcohol/controlled substance use & have refused/failed to complete available treatment during the 3 year period before the filing of the TPR petition.
- At birth, the child's blood/urine/meconium contains any amount of alcohol/controlled substance/metabolites of such substances & at least one other child of mom was exposed to a controlled substance/alcohol & adjudicated dependent.
- On 3 or more occasions the child/another child of the parent(s) has been placed in out-of-home care & conditions that led to the placement were caused by the parent(s).

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Second Judicial Review Hearing

Decides if permanency plan is appropriate for the child

Must be held within 6 months of the first review, but no later than 12 months after removal

If held at 12 months, review must present the permanency plan for the child

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Judicial Review Hearing for Children Awaiting Adoption

Must be conducted every 6 months to review the current placement & progress towards adoptive placement

If child is already placed in an adoptive home, reviews progress toward finalization

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Judicial Review Hearing Prior to Child's 18th Birthday

Must be held within 90 days after the child's 17th birthday

Reviews the child's progress

Must give the court specific information about independent living services

Must submit updated case plan and JRSS/CPU

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Citizen Review Panels and/or Administrative Reviews

Judicial reviews may be handled by a citizen review panel.

If a formal agreement exists between the circuit and courts, an administrative review will be held for children in out-of-home care.

Citizen review panels cannot conduct more than 2 consecutive reviews without holding a judicial review in front of the court.

Administrative reviews cannot be substituted for the 1st judicial review or any subsequent 6 month reviews.

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Permanency Hearing

Held no later than:

- 12 months after removal; or
- 30 days after court finds that reasonable efforts to return the child to either parent are not required

The court decides:

- if the permanency goal is appropriate
- when the child will achieve one of the permanency goals
- if the agency has made reasonable efforts to finalize the permanency plan

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Permanency Hearing (continued)

F.A.C. 65C-30.013(5)(b) notes four instances in which a permanency hearing occurs:

- within 30 days of judicial finding that reasonable efforts to reunify are not required
- no later than 12 months from the date the child was removed
- no less frequently than every 12 months if the child remains in out-of-home care & under Judicial In-Home Services
- if child has been in out-of-home care for the past 12 out of 22 months

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Expedited TPR

No requirements for reasonable efforts to preserve & reunify the family apply, if any events in F.S. 39.806(1)(b)-(d) or (f)-(l) have occurred.

TPR petition is filed, the case plan will have a goal of adoption.

Case plan goal of reunification does NOT have to be offered to the parents.

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Termination of Parental Rights Hearing

A trial with its own advisory hearing, adjudicatory hearing & disposition held specifically for TPR cases

Purpose: decide if parental rights should be terminated so the child can be adopted

Standard of proof: "clear and convincing"

Advisory hearing takes place before TPR hearing

Adjudicatory hearing occurs within 45 days after TPR advisory hearing

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